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Patent

Attorney Docket No. 1034136-000040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of
Zhongxin Ge et al.
Application No.: 10/594,429
Filing Date: September 26, 2006
Title: POLYHYDROXY
HYDROGENSULFATED
TRIMETALLIC NITRIDE
ENDOHEDRAL
METALLOFULLERENES

) MAIL STOP
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) Group Art Unit: Unassigned
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) Examiner: Unassigned
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) Confirmation No.: Unassigned
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PETITION FOR FILING APPLICATION BY LESS THAN ALL THE INVENTORS
PURSUANT TO 37 C.F.R. § 1.47(a) TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is a Petition for Filing Application By Less Than All The Inventors Pursuant to 37 C.F.R. § 1.47(a) for the above-identified patent application. Also enclosed are the following documents in connection with the Petition:

- ☒ Statement of Facts Under 37 C.F.R. § 1.47(a).
- ☒ Second Statement of Facts Under 37 C.F.R. § 1.47(a).
- ☒ Combined Declaration and Power of Attorney for Utility or Design Patent Application.
- ☒ The fee required by 37 C.F.R. § 1.17(g) of \$200.00.
- ☒ The Director is hereby authorized to charge all appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date February 14, 2008

By: Susan M. Dadio
Susan M. Dadio
Registration No. 40373

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
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Zhongxin GE et al.)	Group Art Unit: Unassigned
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Application No.: 10/594,429)	Examiner: Unassigned
)	
Filed: September 26, 2006)	Confirmation No.: Unassigned
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For: POLYHYDROXY)	
HYDROGENSULFATED)	
TRIMETALLIC NITRIDE)	
ENDOHEDRAL)	
METALLOFULLERENES)	

**PETITION FOR FILING APPLICATION BY LESS THAN
ALL THE INVENTORS PURSUANT TO 37 C.F.R. § 1.47(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby submit this Petition to the Commissioner to accept the filing of the above-identified patent application by less than all of the joint inventors pursuant to 37 C.F.R. § 1.47(a).

The joint inventors of this application are Zhongxin Ge and Harry C. Dorn. It is requested that the inventor Zhongxin Ge be permitted to make a declaration of inventorship in connection with the above identified U.S. patent application on behalf of Harry C. Dorn. Joint inventor Harry C. Dorn has refused to sign the Declaration. The other inventor Zhongxin Ge has signed the Declaration and a copy of the partially executed Declaration is enclosed.

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Accordingly, this Petition is being submitted under 37 C.F.R. § 1.47(a) and, pursuant to M.P.E.P. §§ 409.03, 409.03(a), and 409.03(d), sets forth the following:

(A) A declaration by the available inventor, Zhongxin Ge, on his own behalf and on behalf of the non-signing inventor, Harry C. Dorn (as evidenced by the signature block of Harry C. Dorn being left blank per M.P.E.P. § 409.03(a)) is enclosed.

(B) This Petition is based on proof of facts showing that the non-signing inventor, Harry C. Dorn, refuses to sign the Declaration. See Statement of Facts Under 37 C.F.R. § 1.47(a) with Exhibits 1-4 (FIRST STATEMENT) and Second Statement of Facts Under 37 C.F.R. § 1.47(a) with Exhibits A-B (SECOND STATEMENT).

This application was filed in the U.S. Patent and Trademark Office by the undersigned on September 26, 2006 without an executed Declaration. On November 14, 2006, copies of the application and a Declaration for execution by Harry C. Dorn were sent by overnight courier to John P. Fishwick, Jr. at Lichtenstein Fishwick & Johnson PLC, attorney for Harry C. Dorn. See FIRST STATEMENT, ¶ 4. On January 8, 2007, Mr. Aaron S. Hullman, who at the time was Vice President and General Counsel for Luna Innovations Incorporated (Assignee) received a letter from John P. Fishwick, Jr. indicating that David O. Williamson, Esq. was now representing Harry C. Dorn. See FIRST STATEMENT, ¶¶ 1 & 5.

Mr. Williamson represents Dr. Dorn for matters regarding Luna Innovations incorporated (assignees of the above-identified application). See SECOND STATEMENT, ¶ 3. Such representation of Dr. Dorn, by Mr. Williamson, includes

intellectual property matters and such intellectual property matters include the subject patent application. See SECOND STATEMENT, ¶ 3.

On May 11, 2007, Mr. Hullman sent a certified letter to Mr. Williamson enclosing a copy of the application (which includes the specification, claims, and drawings) as well as a Declaration for execution by Harry C. Dorn. See FIRST STATEMENT, ¶ 6 and SECOND STATEMENT, ¶ 2. On July 16, 2007, a further letter was forwarded, via Federal Express, to Mr. Williamson enclosing a duplicate package as was sent on May 11, 2007. See FIRST STATEMENT, ¶ 7 and SECOND STATEMENT, ¶ 2. Hence, a diligent effort was made to obtain the signature from Harry C. Dorn.

Two signed sworn statements of facts by Mr. Hullman, with accompanying documentary evidence, set forth the steps taken to obtain execution by Harry C. Dorn and fully describe Mr. Hullman's firsthand knowledge of the exact facts relied upon to establish that a diligent effort was made.

Despite reasonable efforts to have Harry C. Dorn execute the above-identified Declaration, Dr. Dorn has not returned the executed Declaration and the comments and conduct of his attorney, Mr. Williamson, constitute a refusal of Dr. Dorn to execute the Declaration (as evidenced by a failure to return an executed Declaration).

(C) The last known personal mailing address of the non-signing inventor, Harry C. Dorn, is as follows:

Dr. Harry C. Dorn
101 Fincastle Drive
Blacksburg, Virginia 24060.

The last known mailing address of the attorney for Harry C. Dorn is as follows:

David O. Williamson, Esq.

302 Washington Avenue, S.W.

Roanoke, Virginia 24016-4312.

(D) The fee required by 37 C.F.R. § 1.17(g) of \$200.00 is also submitted herewith. The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment to Deposit Account No. 02-4800. This paper is submitted in duplicate.

It is submitted that the requirements of 37 C.F.R. § 1.47(a) have been satisfied and this Petition should therefore be granted. Any questions regarding this Petition should be directed to the undersigned at the telephone number set forth below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: February 14, 2008

By: 

Susan M. Dadio

Registration No. 40,373

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